

Serial No. 10/706,296
Attorney Docket No. 632898-044
Amendment

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REMARKS/ARGUMENTS**AUG 17 2006**

Claims 1-29 remain in this application. Claims 1 and 11 have been amended.

Claims 1-10, 15-19 and 23-26 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. According to the Office action, the term "solids enriched in genistin" is indefinite. Applicants respectfully submit that the term is in compliance with 35 U.S.C. §112, second paragraph, in that it refers to the solids having an increased ratio of genistin to daidzin. The term is clearly defined in paragraph 0019 of the specification. Accordingly, the solids described as being enriched in genistin simply refers to solids wherein the ratio genistin to daidzin has been increased during processing of the given composition. Accordingly, applicants respectfully submit that the term is definite and would be easily understood by one of ordinary skill in the art when viewed in the context of the specification. Nonetheless, independent claims 1 and 11 have been amended to further clarify the claims by reciting the ratio of genistin to daidzin as being greater than about 3:1. Therefore, applicants respectfully request that the rejection be withdrawn.

Claims 1-29 stand rejected as being unpatentable over U.S. Patent No. 5,919,921 to Waggle et al. According to the Office action, Waggle discloses the presently claimed invention except for purification of isoflavone glycosides and isolation/purification of a concentrate comprising genistin and daidzin. The Office further contends that it would have been obvious to modify the Waggle et al. process to obtain the present invention because of the similarity in process steps and function. Applicants respectfully submit that the claims of the present application are not obvious over the teachings of the Waggle et al. document. Nonetheless, to expedite prosecution of the present case, applicants have amended claims 1 and 11 to further indicate that the ratio genistin to daidzin is greater than about 3:1. Waggle et al. describe isoflavone enriched material but fail to disclose or suggest preparation of a composition which is enriched in genistin such that the ratio genistin to daidzin is at least about 3:1. Furthermore, there is a significant difference between extracting soy molasses having a relatively low concentration of isoflavones as described in Waggle et al. and digesting a soy isoflavone concentrate as set

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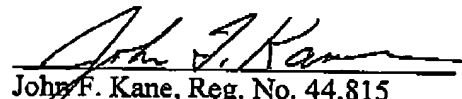
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forth in the claims of the present application. One of ordinary skill in the art would not look to the same methods and techniques for attempting to purify glycosides of genistin and daidzin from such different compositions. Therefore, for at least this reason as well, applicants submit that claims 1 and 11 and the claims dependent thereon are patentable over the cited document.

Claim 27 is directed to a method of purifying glycosides of genistin, daidzin and glycyetin from impurities present in a soy isoflavone concentrate using glacial acetic acid in conjunction with an organic solvent that reduces the polarity of glacial acetic acid. Waggle et al. fail to disclose or suggest any such combination used in digesting a soy isoflavone concentrate. Therefore, for at least this reason as well, applicants submit that claims 27-29 are patentable over the cited reference.

In view of the remarks above, the applicants respectfully submit that this application is in condition for allowance and request favorable action thereon. In the event that the Examiner wishes to discuss any aspect of this response, please contact the undersigned at the telephone indicated below.

Respectfully submitted,


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